



CALIFORNIA  
DEPARTMENT OF  
EDUCATION

**JACK O'CONNELL**  
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

October 13, 2010

**SUPERINTENDENT'S  
OFFICE**

**OCT 15 2010**

Frances Brinkman  
3246 Bonita Mesas Road  
Bonita, CA 91902

Jesus Gandara, Superintendent  
Sweetwater Union High School District  
1130 Fifth Avenue  
Chula Vista, CA 91911-2812

Dear Ms. Brinkman and Superintendent Gandara:

COMPLIANCE INVESTIGATION NOTIFICATION: Case # S-0228-10/11  
STUDENT NAME: Various

This letter provides notification that information alleging violations of laws and/or regulations has been received by this office. After review by staff, and in accordance with the provisions of Title 5, California Code of Regulations, (5 CCR), Sections 4600-4671, it has been determined that this is a matter for direct state investigation by the California Department of Education (CDE). Please review the following information carefully.

The alleged violations are included as an attachment at the end of this letter.

Districts are encouraged to resolve the complaint at the local level by utilizing an alternative dispute resolution (ADR) strategy. A successful ADR will lead to either a withdrawal of the complaint by the Complainant, or the completion of a Local Complaint Resolution (refer to instructions given on page 2 of the Local Resolution document). A Local Complaint Resolution must contain all required components, and be approved by the CDE. If you are interested in utilizing an ADR, please contact your Special Education Local Plan Area (SELPA) or the CDE Procedural Safeguards and Referral Service (PSRS) at 1-800-926-0648 for assistance. If appropriate documentation is provided that all parties agree to a proposed resolution through ADR, further state intervention may not be necessary.

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A Local Complaint Resolution may also be completed during the course of the investigation with the assistance of the assigned state investigator.

Although a withdrawal of the complaint or a Local Complaint Resolution may be pending, a state investigation will be conducted concurrently. Therefore, it is mandatory that the public agency respond to the state investigator's request for information.

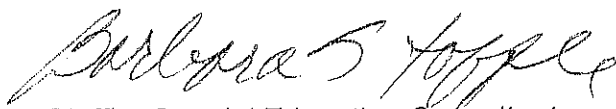
All parties in this complaint will be contacted by a state investigator during the course of the investigation and will be given an opportunity to provide information relevant to the allegations in this complaint. A confidential investigation file will be established in our office.

A report will be provided upon completion of the investigation. Corrective actions will be listed to describe the steps that the public agency must take in response to any conclusions of non-compliance.

If, following the issuance of the report and the directive of any corrective actions, there continues to be a failure or refusal to comply with laws or regulations, measures may be exacted by the State Superintendent of Public Instruction to effect compliance, pursuant to 5 CCR § 4670. These may include, but are not limited to, the withholding of State or federal fiscal support, and proceedings in a court of competent jurisdiction for an appropriate order compelling compliance.

Please address any inquiries regarding this complaint to the Focused Monitoring and Technical Assistance Unit 5 at 916-445-4632 or fax 916-327-0326.

Sincerely,



Barbara Stoffle, Special Education Consultant  
Procedural Safeguards and Referral Service, Special Education Division

BS:fm8  
Attachment

cc: Sheila Weinberg, SELPA Director, South Bay Service Area SELPA  
Ronald A. Lopez, Special Education Director, Sweetwater Union High

**Attachment to Complaint Investigation Notification  
Case # S-0228-10/11**

Citation(s)

EC 56392

Allegation(s)

Failure to allow an individual with exceptional needs to earn a standard diploma when the pupil has completed the prescribed course of study and has passed the proficiency requirements

EC 56140(a)

Failure of the county office to initiate and submit a countywide plan that demonstrates the coordination of all local plans within the county and ensures that all individuals with exceptional needs residing in the county have access to appropriate special education programs and related services

**California Department of Education Report of Local Complaint Resolution**  
Special Education Compliance Investigation Case # S-0228-10/11

Instructions: This form includes all requirements of 34 *Code of Federal Regulations* section 300.661 (a)(4) and 5 *California Code of Regulations* section 4663. The parties must utilize the content format as presented. Additional space in each category may be utilized and additional information may be sent as an attachment. The Report of Local Complaint Resolution must be submitted within the 60-day timeline to:

Focused Monitoring and Technical Assistance Unit 5  
California Department of Education  
1430 N Street, Suite 2401  
Sacramento, California 95814-5901

The Department shall review and may contribute to the local resolution to ensure that all required components are included in the resolution and compliance with state and federal laws and regulations is maintained. A concurrent state investigation may be taking place to ensure completion of the state investigation within the required time line. Upon approval of the local resolution or the completion of a state level investigation, each party will receive a copy of the report via U.S. mail.

If you have any questions or need further information call the Focused Monitoring and Technical Assistance Unit 5 at 916-445-4632 or fax 916-327-0326.

(Complainant) BRINKMAN, FRANCES	(Public Education Agency) Sweetwater Union High
(Student) , VARIOUS	(Address of Public Agency) 1130 Fifth Avenue Chula Vista, CA 91911-2812
	(Superintendent) Jesus Gandara
	(County) SAN DIEGO COUNTY
CITATION(S): ATTACHED	ALLEGATION(S): SEE ATTACHED

EVIDENCE (Describe the situation in chronological order):

FINDINGS OF FACT (For each allegation, state the facts upon which you are basing you conclusions)

CONCLUSION(S) (State compliant or non-compliant for each allegation):

REQUIRED CORRECTIVE ACTION(S) \_\_\_\_\_ Not Required \_\_\_\_\_ Required  
 (For each determination of non-compliance, (1) describe the corrective action; (2) state timelines for completion of the action; (3) describe how the agency will verify the completion of the action and (4) provide the date the agency will send the evidence of completion of the corrective action to the California Department of Education, Special Education Division, Focused Monitoring and Technical Assistance Unit 5, 1430 N Street, Sacramento, CA 95814.

The signatures below indicate that the complaint has been satisfactorily resolved. The district and SELPA provide assurance that this resolution is consistent with required special education federal and state laws and regulations.

Complainant	Date	Superintendent	Date
SELPA Administrator	Date	FMTA 5 Consultant	Date
LEA Special Ed Administrator	Date	Fred Balcom, Director Special Education Division	Date
cc: All Noticed Parties			

### REQUEST FOR COMPLAINT INVESTIGATION

PLEASE NOTE: A complaint may be filed through the use of this form or by a written letter sent by fax or postal mail. E-mails cannot be accepted as formal complaints because they do not meet signature requirements under 34 C.F.R. 300.153(b)(3). If upon analysis of a request, a complaint is opened, a complaint investigation will be completed within 60 days of receipt in the California Department of Education (CDE) Special Education Division Procedural Safeguards Referral Service (PSRS) of all required information.

The written complaint must specify at least one alleged violation of state and/or federal special education laws that occurred not more than one year prior to the date the complaint is received by the CDE. The party filing a complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files a compliance complaint with the CDE. (34 C.F.R. 300.153(d))

Please return the completed form to: California Department of Education, Special Education Division, Procedural Safeguards Referral Service, 1430 N Street, Suite 2401, Sacramento, CA 95814  
Phone: (800) 926-0648 FAX: (916) 327-3704

Name of School District or other Public Educational Agency that allegedly violated state and/or federal special education laws:

SWEETWATER UNION HIGH SCHOOL DISTRICT

Complainant Contact Information:

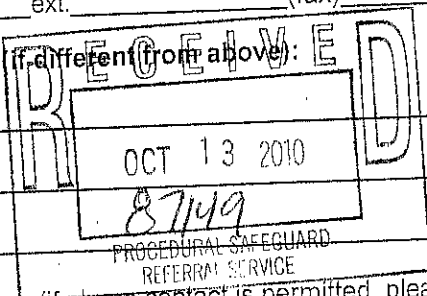
Name FRANCES BRINKMAN / JOHN BRICKLEY  
Address 3244 BONITA MESA RD. 677 RUE AVALLON, CHULA VISTA  
City BONITA CA, CA Zip Code 91902 CA 91913

Phone Numbers (Please note the best time to call):

(day) 619-479-1001 / 619-421-3032 (evening) 619-479-1001 / 619-421-3032  
(work) N/A ext. \_\_\_\_\_ (fax) \_\_\_\_\_

Parent/Guardian Information (if different from above):

Name(s) \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_, CA Zip Code \_\_\_\_\_



Parent/Guardian Phone Numbers (if phone contact is permitted, please indicate the best time to call):

(day) \_\_\_\_\_ (evening) \_\_\_\_\_  
(work) \_\_\_\_\_ ext. \_\_\_\_\_ (fax) \_\_\_\_\_

Student Information (If alleging violations with respect to a specific child):

Name VARIOUS  
Date of Birth \_\_\_\_\_ Current Grade Level \_\_\_\_\_  
Address Where Student Resides (If different from Parent/Guardian information):  
Address \_\_\_\_\_  
City \_\_\_\_\_, CA Zip Code \_\_\_\_\_  
School of Attendance (required) \_\_\_\_\_

Pursuant to 34 CFR 300.153(b)(1), I would like to file a complaint because I believe that the public education agency listed on page one has violated state and/or federal education laws. Here are the facts of what happened: (Include a specific statement of each alleged violation and the dates when the violation occurred, if necessary use additional pages (CFR 300.153(b)(2))

Sweetwater Union High School District (SUHSD) Board of Trustees approved on July 27, 2009 the creation of Independent Study High School (ISHS). See attachment. In the Agenda Item under Analysis it is stated that "Students with IEP's will continue to need an IEP addendum for enrollment to and exit from the redesigned high school."

We request direct intervention pursuant to E.C. 56392. SUHSD failed to provide opportunity for individuals with exceptional needs a standard diploma... This also applies to all regular education students. The total population of the ISHS is approximately 2800 students, as per the CalPADS Snapshot of October 7, 2009.

Parents were never informed that diplomas by ISHS are considered Tier 2 by the military because ISHS is an **Independent Study** high school.

The reason that Tier 2 applies is because ISHS does not meet the following criteria:

- 1. ISHS does not offer all A-G classes. (No foreign language, no lab sciences, no Finite Math, etc.)
- 2. ISHS is not WASC accredited.
- 3. ISHS does not have a school site council.
- 4. ISHS does not have a school site plan. This equals no instructional plan, goals or strategies to improve academic proficiencies of targeted populations (Special Ed. population not cited)

All students were placed in a substandard learning environment without parent notification.

Who have you contacted regarding the above issue(s)? What was the outcome?

SUHSD Board of Trustees were informed of the above issues at the Regular Board Meeting on September 20, 2010 during Public Comment. Board members present were Arlie Ricasa, Pearl Quinones, James Cartmill, Bertha Lopez, and Greg Sandoval. Also present was Superintendent, Jesus Gandara.

Proposed Resolution (34 CFR 300.153(b)(4)(V)):

A complaint investigation would not be necessary if: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has your child been referred for special education? Yes \_\_\_\_\_ No \_\_\_\_\_

Was your child ever identified for special education? Yes \_\_\_\_\_ No \_\_\_\_\_

Does your child have an individualized education program (IEP)? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please include a copy of the most recently signed IEP.

Include copies of any other documents that apply to this request for complaint investigation, such as assessment plans, written correspondence or mediation and settlement agreements.

Signature of Complainant Francisco Brinkman / John M. Brinkman Date 10-7-10